



U.S. Patent Appln. No. 09/986,305
P21570.A13 (S 808/US)

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Bruno BORSOI)	
)	Group Art Unit 3764
Appln. No.	:	09/986,305)	
)	Examiner Huong Q. Pham
Docket No.	:	P21570)	
)	Confirmation No. 5187
Customer No.	:	07055)	
)	
Filed	:	November 8, 2001)	
)	
Title	:	JOINT PROTECTIVE ARTICLE)	

REQUEST FOR WITHDRAWAL OF PREMATURE FINAL OFFICE ACTION

U.S. Patent and Trademark Office
Customer Service Window, Mail Stop *AF*
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Pursuant to the guidelines presented in the Manual of Patent Examining Procedure (MPEP), Section 706.07(d), Applicant kindly requests that the final Office action of April 6, 2007 be withdrawn as being premature.

Applicant's reasons for making the request are the following.

MPEP §706.07(a), entitled "Final Rejection, When Proper on Second Action," explains that "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement"

On page 10, lines 13-14, of the final rejection of January 12, 2007 (issued in response to Applicant's reply filed on December 26, 2006), the assertion is made that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL."

{P21570 00276669.DOC}

On page 8 of the Office action, the following new ground of rejection is presented: "Claims 2, 4-7, 15, 17, 19-23, 25-40, 43, 46-47, 49, 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dachgruber et al (6,360,454) in view of Rathmell (3,968,578) and Filice (6,381,877)."

Of the rejected claims, the following were not amended at all: claims 2, 4, 5, 15, 17, 30-33, 35-39, and 43. Of those, claim 30 is independent. In addition, independent claim 47 was amended only to the extent that "comprises" was changed to "comprising" and that "is" was changed to "being," neither of which changed the substance of the subject matter of claim 47. Further, Applicant submits that the amendment made to independent claim 19 did not necessitate the new ground of rejection.

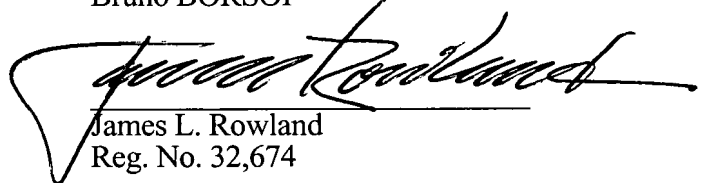
In fact, in the prior Office action, the only rejection of independent claims 19, 30, and 47, and the claims depending therefrom, was based upon RATHMELL '578.

Further, claim 3 is newly rejected over DACHGRUBER, it having been rejected only over the two RATHMELL patents previously. The explanation in support of the rejection (see page 4, lines 16-21, of the final Office action, relating to the claimed "membrane") is unrelated to the amendment made to claim 3.

In view of the foregoing, Applicant submits that it was not his amendment that necessitated the new ground of rejection and, accordingly, withdrawal of the final Office action and issuance of a new non-final Office action or other communication are kindly requested.

Any comments or questions concerning this application can be directed to the undersigned at the below-listed telephone number, fax number, or email address.

Respectfully submitted,
Bruno BORSOI



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